

By: Ellis

S.B. No. 869

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the collection and dissemination of certain information
3 for a federal firearm background check.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter D, Chapter 411, Government Code, is
6 amended by adding Sections 411.052 and 411.0521 to read as follows:

7 Sec. 411.052. FEDERAL FIREARM REPORTING. (a) In this
8 section, "federal prohibited person information" means information
9 that identifies an individual as:

10 (1) a person ordered by a court to receive inpatient
11 mental health services under Chapter 574, Health and Safety Code;

12 (2) a person with mental retardation committed by a
13 court for long-term placement in a residential care facility under
14 Chapter 593, Health and Safety Code;

15 (3) an incapacitated adult individual for whom a court
16 has appointed a guardian with full authority over the individual
17 under Chapter XIII, Probate Code; or

18 (4) a person determined to be incompetent to stand
19 trial under Chapter 46B, Code of Criminal Procedure.

20 (b) The department by rule shall establish a procedure to
21 provide federal prohibited person information to the Federal Bureau
22 of Investigation for use with the National Instant Criminal
23 Background Check System. Except as otherwise provided by state
24 law, the department may disseminate federal prohibited person

1 information under this subsection only to the extent necessary to
2 allow the Federal Bureau of Investigation to collect and maintain a
3 list of persons who are prohibited under federal law from engaging
4 in certain activities with respect to a firearm.

5 (c) The department shall grant access to federal prohibited
6 person information to the person who is the subject of the
7 information.

8 (d) Federal prohibited person information maintained by the
9 department is confidential information for the use of the
10 department and, except as otherwise provided by this section and
11 other state law, may not be disseminated by the department.

12 Sec. 411.0521. REPORT BY COURT TO DEPARTMENT OF PUBLIC
13 SAFETY. (a) The clerk of the court shall prepare and forward to the
14 Department of Public Safety the information described by Subsection
15 (b) not later than the 30th day after the date the court:

16 (1) orders a person to receive inpatient mental health
17 services under Chapter 574, Health and Safety Code;

18 (2) commits a person with mental retardation for
19 long-term placement in a residential care facility under Chapter
20 593, Health and Safety Code;

21 (3) appoints a guardian with full authority over an
22 incapacitated adult individual under Chapter XIII, Probate Code; or

23 (4) determines a person is incompetent to stand trial
24 under Chapter 46B, Code of Criminal Procedure.

25 (b) The clerk of the court shall prepare and forward the
26 following information under Subsection (a):

27 (1) the complete name, race, and sex of the person;

1 (2) any known identifying number of the person,
2 including social security number, driver's license number, or state
3 identification number;

4 (3) the person's date of birth; and

5 (4) a certified copy of:

6 (A) the order for inpatient mental health
7 services;

8 (B) the order committing the person to a
9 residential care facility;

10 (C) the order appointing a guardian; or

11 (D) the order determining that the person is
12 incompetent to stand trial.

13 (c) The duty of a clerk to prepare and forward information
14 under this section is not affected by:

15 (1) any subsequent appeal of the court order;

16 (2) any subsequent modification of the court order; or

17 (3) the expiration of the court order.

18 SECTION 2. Each clerk of the court shall prepare and forward
19 information required to be forwarded to the Department of Public
20 Safety by Section 411.0521, Government Code, as added by this Act,
21 for each order issued on or after September 1, 2001. Not later than
22 September 1, 2006, each clerk of the court shall prepare and forward
23 the information for any court orders issued on or after September 1,
24 2001, and before September 1, 2005.

25 SECTION 3. This Act takes effect September 1, 2005.